

Superseded 5/10/2016

78B-3-418 Decision and recommendations of panel -- No judicial or other review.

- (1)
 - (a) The panel shall issue an opinion and the division shall issue a certificate of compliance with the pre-litigation hearing requirements of this part in accordance with this section.
 - (b) A certificate of compliance issued in accordance with this section is proof that the claimant has complied with all conditions precedent under this part prior to the commencement of litigation as required in Subsection 78B-3-412(1).
 - (c)
 - (i) Notwithstanding any other provision of this part, any party in a medical malpractice action or arbitration hearing may request a prelitigation panel review as to a health care provider and obtain a certificate of compliance for that specific, individual health care provider for the purpose of allocating fault to that health care provider. A party in a medical malpractice action or arbitration hearing may not attempt to allocate fault to any health care provider unless a certificate of compliance has been issued in accordance with this section for that specific, individual health care provider. A health care provider exempted from the requirement of a prelitigation hearing by statute or an arbitration agreement, may nevertheless be joined in a prelitigation hearing to satisfy the requirements of this section. Participation in a prelitigation hearing may not waive any right to enforce an arbitration agreement.
 - (ii) The party making the claim against, or seeking to allocate fault to, a health care provider is required to seek and obtain the certificate of compliance required by this Subsection (1)(c).
- (2)
 - (a) The panel shall render its opinion in writing not later than 30 days after the end of the proceedings, and determine on the basis of the evidence whether:
 - (i) each claim against each health care provider has merit or has no merit; and
 - (ii) if a claim is meritorious, whether the conduct complained of resulted in harm to the claimant.
 - (b) There is no judicial or other review or appeal of the panel's decision or recommendations.
- (3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the intent to file a claim under this part, if:
 - (a) for a named respondent, the panel issues an opinion of merit under Subsections (2)(a)(i) and (ii);
 - (b) for a named respondent, the claimant files an affidavit of merit in accordance with Section 78B-3-423 if the opinion under Subsection (1)(a) is non-meritorious under either Subsection (2)(a)(i) or (ii);
 - (c) the claimant has complied with the provisions of Subsections 78B-3-416(3)(c) and (d); or
 - (d) the parties submitted a stipulation under Subsection 78B-3-416(3)(e).